

**DECISION**



13831 PL-II  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*[Protest of Contract Award to Provide Software System]*

FILE: B-196769

DATE: May 28, 1980

MATTER OF: Data Use and Access Laboratories

**DIGEST:**

1. In absence of any evidence to the contrary, GAO has no basis to question agency's technical judgment that proposed software system, as modified, will, at time of installation, perform all tasks required by solicitation or judgment that proposed costs are reasonable.
2. Award of fixed-price/labor hour contract at "price" in excess of the offeror's "price" is not improper as award was made to offerors proposing lower labor rates and award "price" is merely ceiling price allowing for possibility of agency's requiring more hours under the contract than those estimated in RFP.

Data Use and Access Laboratories (DUAL) protests the Department of Health and Human Services' (HHS) award of a contract to Cambridge Computer Associates, Inc. (CCA) under request for proposals (RFP) No. 97-79-HEW-0S to provide a software system for processing Census files for one year (the base period). The RFP, which called for a firm fixed-price/labor hour contract, provided for two one-year options.

DUAL contends the RFP required that the successful offeror install a system capable of seven functions, including producing codebook documented file extracts, and suggests that CCA's proposed TPL (Table Producing Language) software system cannot produce the required codebook extracts without subsequent modification. DUAL also complains that the contract for the first year base period was awarded to CCA at a higher "price," \$97,825, than the \$95,138 proposed by DUAL for that

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period. The protester also argues that the difference between CCA's total "price" of \$580,933.60 and DUAL's "price" of \$739,710 raises a "reasonable question" whether CCA's proposed labor rates for the option years are reasonable.

We agree that that the RFP required the installation of a fully operable software system capable, without subsequent modification, of producing codebook extracts. The agency reports, however, that CCA proposed a fully operational software system which integrates PL/I (another programming language) routines with the TPL system to automatically generate codebooks at the time of its initial installation, without the necessity for further modifications. In this regard, the record shows that CCA's proposal frankly acknowledged TPL's inability to produce codebook extracts, and proposed integrating PL/I routines for the express purpose of accomplishing that required task. The HHS evaluation panel described CCA's use of PL/I programs for this purpose as being "particularly good."

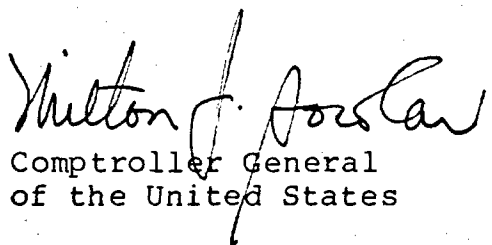
Generally, it is not the function of our Office to independently evaluate the technical adequacy of proposals. Westinghouse Electric Corporation, B-189730, March 8, 1978, 78-1 CPD 181. The overall determination of the technical adequacy of proposals is primarily a function of the procuring agency which will not be disturbed by our Office absent a clear showing that the determination was arbitrary or unreasonable. ITEL Corporation, B-192139.7, October 18, 1979, 79-2 CPD 268. Since DUAL has presented no evidence to show HHS' conclusion that CCA's modified software will be capable of performing all of the seven required functions at the time of installation is incorrect, we find no basis for taking exception to the agency's determination in this matter.

With respect to "price", the record shows that CCA's proposed overall labor rates, proposed costs for the base period, and proposed costs for both the base and option periods were lower than DUAL's, and CCA's

proposal was accepted for award primarily for that reason. For example, CCA proposed estimated costs of \$86,522 for the base period while DUAL proposed \$95,138. The discrepancy between CCA's proposed costs for the first year and the award amount is attributable to the agency's making allowance for more hours under the contract than the estimate set out in the RFP by awarding on the basis of a "not to exceed", or ceiling, price. In other words, the effort required under the contract may result in contract costs up to \$97,825. There is, however, no change in the hourly labor rates or other price elements offered by CCA. Therefore, we find no merit to this aspect of DUAL's protest.

Finally, DUAL expresses concern that CCA's labor rates for the two option periods are so low that CCA will not be able to adequately perform the required services. DUAL questions the acceptability of the CCA proposal in light of the RFP's evaluation criteria regarding unrealistically low costs reflecting on an offeror's understanding of the complexity of the work. The record shows that CCA's labor rates were examined and found to be reasonable. Since DUAL has not offered any evidence indicating that this conclusion was unreasonable, we again find no basis for objecting to the agency's action.

The protest is denied.

  
For the Comptroller General  
of the United States